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7590

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FLYNN, THIEL, BOUTELL & TANIS, P.C.  
2026 Rambling Road  
Kalamazoo, MI 49008-1699

EXAMINER

TRAN A, PHI DIEU N

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/782,947

Applicant(s)

YU ET AL.

Examiner

Phi D A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address.

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5 and 7-43 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5, 7-8, 10-14, 20, 41-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Muller (5875596).

Muller (figure 3) shows a space dividing wall panel assembly having an open frame defined by a pair of vertically oriented uprights (46, figures 3-4) fixed to one another by at least one horizontally oriented cross rail (170) which extends transversely between the uprights, a pair of opposed side covers (172) overlying the frame on opposite sides thereof, an elongate top cap (140, figure 5) positioned longitudinally along an upper one of the cross members and extending along a substantial portion of the longitudinal extent of the upper cross member, and secured thereto by a mounting member (24) engaging the lower portion of the top cap and clampingly engaging the upper cross member from opposite outwardly facing sides thereof, the top cap defining an elongate outwardly/upwardly open groove (156, the groove partly angled upwardly) therein, a lower portion (148) which projects downwardly between upper edges of the opposed cover members, a bracket/hanger (208, 204, figure 7) slidably engaged within the groove of the top cap, the groove being T-shaped in cross section (roughly), the upper end of the bracket is engaged within the groove (figure 7) and the bracket having a lower end in supportive engagement with a lower one of the cross members (inherently so as the lower end touches the outer surface, it also indirectly touches a lower cross member), the bracket overlying a portion of

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the vertical side surface of the cover member and mounted thereon a furniture component (202), the vertical side surfaces defining respective outer side surfaces of the panel assembly, the mounting member being releasably engaged the lower portion of the top cap and clampingly engages the upper frame member from opposite sides thereof, the lower portion of the top cap having a pair of mounting flanges ( 152) which engage within respective channels, the upper portion of the top cap having a wall structure which defines a hollow interior ( 146), the lower portion including a pair of mounting flanges which project downwardly from a bottom wall of the upper portion, defined within the mounting member, the mounting element supports an overhead storage unit ( 202, figure 6) which overlies a portion of one of the side covers, the lower portion of the top cap defining first and second flanges (148, 152) which project outwardly toward opposite sides (172) of the panel assembly, the mounting member (24) including a pair of opposed and distinct clamps (22, 36) disposed on opposite outwardly facing sides of the upper cross member and defining respective channels (between upper and lower 36) which open inwardly and toward one another, the first and second flange (152) each being engaged within the channels, the upper portion of the top cap defining a generally hollow interior (146) and the lower portion projects downwardly from a bottom wall of the upper portion for engagement with the upper cross member, the mounting member including a pair of clamps (22) disposed in opposed relation with one another, each said clamp having a lower portion which overlies an upright side wall of the upper frame member and an upper portion (28, 32) which engages the lower portion of the top cap, the clamps being adjustable relative to one another in a first direction wherein the clamps being movable toward one another and into engagement with the

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top cap, a second direction wherein the clamps being movable away from one another so as to disengage from the top cap member and permit removal of the frame (by the flexing of parts 32).

3. Claims 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Muller (5875596).

Muller shows an upright space dividing wall panel assembly comprising a pair of horizontally spaced elongate and generally vertically oriented supports (90) which are fixedly interconnected adjacent upper portions thereof by an elongate and generally horizontally oriented rail member (170), a pair of generally vertically oriented and planar side surface on respective oppositely facing sides of the panel assembly, an elongate and rigid one-piece top cap (122) positioned above and extending along a substantial portion of the rail member, a mounting structure (24) clampingly engaging opposite sides of both said top cap and the rail member to fixedly secure the top cap thereto, the top cap defining therein an outwardly opening, elongate and continuous groove, the groove transferring at least a portion of an external downward load associated with furniture component from the top cap to the rail member (inherently so), one of the top cap and the mounting structure defines a recess therein and the other of the top cap and the mounting structure defining a flange (160) which projects into the recess to secure the top cap to the mounting structure, the mounting structure is defined by a pair of opposed and generally C-shaped clamps (the clamps being formed by parts 22 top and bottom, and part 24) which respectively engage and overlies opposite sides of the rail member and have respective upper portions which interlock with a lower portion (148, 152) of the top cap, the clamps being adjustably fastened to one another to allow same to move toward one another into clamping engagement with the top cap and the rail member, and away from one another to permit release

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of the clamps from the top cap and the rail member and allow removal of the top cap from the panel assembly (per the flexing of the parts 32 away from the parts 152), the lower portion of the top cap defining thereon a pair of horizontally sidewardly projecting cantilevered flanges(152) which engage within inwardly opening and horizontally oriented recesses defined in the upper portions of the clamps, the mounting structure including a plurality of two piece clamps (22, 32) disposed in opposed relation with one another, the clamps being separate components from the top cap.

4. Claims 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Muller (5875596).

Muller shows a space dividing wall panel arrangement comprising a pair of rigid open frame defined by a plurality of laterally spaced uprights having lower ends disposed in supportive engagement with a horizontal support surface, a plurality of vertically spaced supports extending transversely between and rigidly interconnecting the uprights, a pair of covers disposed on opposite open sides of the frame and defining respective generally vertically oriented side surfaces of the panel arrangement, a rigid and elongate top cap supported on an upper one of the supports and extending along a substantial portion thereof, the top cap defining therein an upwardly opening, elongate and continuous channel for mounting therein a hanger associated with a furniture accessory positioned for supportive engagement with the panel arrangement, a plurality of brackets (204) spaced longitudinally along the panel arrangement which clampingly and rigidly secure the top cap to the upper support to permit external loads, such as those associated with furniture accessories, to be transferred from the top cap to the upper support, the channel is defined entirely by the top cap, the uprights and the supports are

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rigid members constructed of metal, the flanges of the top cap extending along substantially the entire longitudinal extend thereof.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 18-19, 36-38, 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller (5875596) in view of Ball et al (4224769).

Muller shows a space dividing wall panel assembly having an open frame defined by a pair of vertically oriented uprights ( 46, figures 3-4) fixed to one another by at least one horizontally oriented cross rail (170) which extends transversely between the uprights, a pair of opposed side covers ( 172) overlying the frame on opposite sides thereof, an elongate top cap ( 140, figure 5) positioned above the cross rail and secured thereto by a plurality of clamps ( 24) disposed longitudinally along the cross rail, the top cap defining an elongate channel (156) therein for accommodating a mounting element associated with a furniture component supported on the panel assembly, the clamps being releasably engaged with the top cap and the cross rail to allow removal of the top cap from the panel assembly, the top cap having a width dimension which is greater than a width of the frame such that the top cap spans a width of the panel assembly as defined between the opposed side covers, the mounting element supports an overhead storage unit ( 202, figure 6) which overlies a portion of one of the side covers.

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Muller does not show the clamps being discrete and spaced longitudinally along the cross rail, the clamps being separate and distinct components from the top cap.

Ball shows clamps (81) being discrete and spaced longitudinally along the cross rail, the clamps being separate and distinct components from the top cap (65).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Muller to show the clamps being discrete and spaced longitudinally along the cross rail, the clamps being separate and distinct components from the top cap as taught by Ball et al because it enable discrete precise fastening locations for the cap which allows for the flexibility of design and material cost saving per less waste material.

7. Claims 9, 15-17, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yu et al (5852904) in view of Muller (5875596).

Yu et al ( figure 3) shows a space dividing wall panel assembly having a frame defined by a pair of upright elongate structural members ( 19, figures 6, 6A) each having a lower end disposed in supportive engagement to a floor, a plurality of elongate frame members ( 42-1, 133, figure 10) extending transversely between and interconnecting the structural members, upper and lower panel members (48-1, 67-1, figure 10) overlying the frame and each being defined by spaced apart and generally upright opposite ends, and upper and lower edges extending laterally between the ends, each panel member additionally including outwardly facing side surfaces disposed between the opposite ends, an elongate bracket (100-2, figures 3, 16) having an upper hook shaped end slidably engaged within a groove on a top rail, a lower end of the bracket having a flange thereon projecting inwardly between the lower edge of the upper panel and the upper edge of the lower panel and supportingly engaging a lower end of the frame members, an

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office-type accessory (15, figure 3) mounted on the bracket, the flange being a first flange, the bracket further including a sidewardly projecting tab ( 26, 104, figure 4) which engages within a recess defined in a rear wall of the accessory, a second flange which projects outwardly and is disposed in supportive engagement with a lower wall of the accessory ( figures 3-4), a connector post ( 100, figure 4) having an upper end secured to the upper bracket and a lower end connected to a lower bracket, the accessory being an overhead storage unit ( 29, figure 1b).

Yu et al does not show an elongate top cap positioned longitudinally along an upper one of the cross members and extending along a substantial portion of the longitudinal extent of the upper cross member, the top cap having an upper wall structure defining an upwardly opening T-shaped groove therein, a lower portion which projects downwardly between upper edges of the opposed cover members for removable securement to the upper cross member, a mounting member engaging the lower portion of the top cap and clampingly engaging the upper cross member from opposite outwardly facing sides thereof, the bracket having the hook slidably engaged within the groove of the top cap, clamps being releasably engaged with the top cap and the cross rail, the top cap having a width dimension which is greater than a width of the frame.

Muller (figure 5) shows an elongate top cap ( 140) positioned along an upper one of the cross members and extending along a substantial portion of the longitudinal extent of the upper cross member, the top cap having an upper wall structure defining an upwardly opening T-shaped groove therein, a lower portion which projects downwardly between upper edges of the opposed cover members for removable securement to the upper cross member, a mounting member engaging the lower portion of the top cap and clampingly engaging the upper cross member from opposite outwardly facing sides thereof, the bracket having the hook slidably

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engaged within the groove of the top cap, clamps being releasably engaged with the top cap and the cross rail, the top cap having a width dimension which is greater than a width of the frame.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Yu et al's structure to show an elongate top cap positioned longitudinally along an upper one of the frame members, the top cap having an upper wall structure defining an upwardly opening T-shaped groove therein, a lower mounting part which projects downwardly from the upper wall structure and is clampingly engaged with the upper frame member, the bracket having the hook slidably engaged within the groove of the top cap because having a cap with a T-shaped groove opening upwardly and clamps releasably engaged with the top cap and the cross rail, the top cap having a width dimension which is greater than a width of the frame would enable providing a cover to the uppermost rail frame of the partition structure which would provide an aesthetic partition and while also providing an attachment point for a bracket as taught by Muller, and having the lower mounting part clampingly engage the upper frame member would enable easy secured fastening of the top cap to the supporting structure as taught by Muller.

Per claims 9, 17, Yu et al as modified shows all the claimed limitations except for the lower frame member having therein at least one horizontally extending and sidewardly opening elongate groove, the flange of the bracket having a free end which engages within the groove of the lower frame member.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Yu et al's modified structure to show the lower frame member having therein at least one horizontally extending and sidewardly opening elongate groove, the flange of

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the bracket having a free end which engages within the groove of the lower frame member because having a frame with side opening elongate groove to accommodate a flange of a mounting bracket is well-known in the art as it provides for mounting selection and support from the frame to an attached structure.

8. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Muller (5875596).

Muller shows all the claimed limitations except for the components being spaced longitudinally from one another along the rail member.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Muller to show the components being spaced longitudinally from one another along the rail member because having a space between the components enable material cost saving per less material wasted at unneeded locations along the mounting structure.

9. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yu et al (5852904) in view of Muller (5875596) and further in view of Ball et al (4224769).

Yu et al as modified by Muller shows all the claimed limitations except for the clamps being discrete and spaced longitudinally along the cross rail.

Ball et al shows clamps being discrete and spaced longitudinally along the cross rail to mount a top cover to the rail.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Yu et al's modified structure to show the clamps being discrete and spaced longitudinally along the cross rail because it enables discrete precise fastening locations for the cap which allows for the flexibility of design and material cost saving per less waste material.

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10. Claims 30-32, 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller (5875596) in view of Yu et al (5852904).

Muller shows all the claimed limitations except for bracket being defined by a pair of identical clamps disposed in opposed relation and adjustably fastened to one another so as to permit the clamps to move toward and away from one another, each clamp having a lower C-shaped portion which overlies an upright side wall of the upper support and an upper portion fixed to the respective lower portion and defining therein a sidewardly and inwardly opening channel.

Yu et al shows a pair of identical clamps (figure 16, 102-2) disposed in opposed relation and adjustably fastened to one another so as to permit the clamps to move toward and away from one another (figure 17A, per 157), each clamp having a lower C-shaped portion which overlies an upright side wall of the upper support and an upper portion fixed to the lower portion and defining therein a sidewardly and inwardly opening channel.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Muller to show the bracket being defined by a pair of identical clamps disposed in opposed relation and adjustably fastened to one another so as to permit the clamps to move toward and away from one another, each clamp having a lower C-shaped portion which overlies an upright side wall of the upper support and an upper portion fixed to the respective lower portion and defining therein a sidewardly and inwardly opening channel as taught by Yu et al because it enables the brackets to be supported at a variety of locations on the panel and allows the brackets to be adjusted for different mounting locations.

Per claims 32, 43, Muller as modified shows the hanger having a lower end portion disposed in direct load bearing engagement with a lower one of the cross members.

11. Claims 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller (5875596) in view of Yu et al as applied to claim 32 above and further in view of Ball et al (4224769).

Muller as modified shows all the claimed limitations except for the clamps being discrete and spaced longitudinally along the cross rail, the clamps being separate and distinct components from the top cap.

Ball shows clamps (81) being discrete and spaced longitudinally along the cross rail, the clamps being separate and distinct components from the top cap (65).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Muller's modifies structure to show the clamps being discrete and spaced longitudinally along the cross rail, the clamps being separate and distinct components from the top cap as taught by Ball et al because it enable discrete precise fastening locations for the cap which allows for the flexibility of design and material cost saving per less waste material.

#### ***Allowable Subject Matter***

1. Claims 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

2. The following is a statement of reasons for the indication of allowable subject matter:  
prior art does not show an elongate fastener extends through each said clamp and is adjustable to

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move the clamps toward one another to fixedly secure the top cap to the upper cross member and away from one another to release the top cap from the upper cross member in combination with other claimed limitations.

***Response to Arguments***

3. Applicant's arguments with respect to claims 1-3, 5-43 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different partition structures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Phi Dieu Tran A  
July 27, 2003